

Dr. Orly Taitz, ESQ

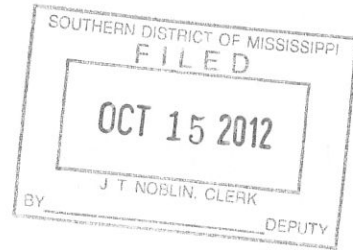
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PRO SE PLAINTIFF IN MS



IN THE US DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

Dr. Orly Taitz, ESQ et al) CASE 12-CV-280
v) HON. HENRY WINGATE
Democratic Party of Mississippi et al) PRESIDING

OPPOSITION TO MOTION FOR JUDGMENT ON THE PLEADINGS

BRIEF IN SUPPORT OF THE MOTION

PART 2.

Part one of the brief is an opposition to Motion for judgment on the pleadings brought by the Secretary of State, which is included herein by reference.

PRECEDENT OF DEMOCRATIC SATE PARTY OF MISSISSIPPI AND
MISSISSIPPI STATE DEMOCRATIC PARTY EXECUTIVE COMMITTEE
V HAILEE BARBOUR, GOVERNOR OF MISSISSIPPI, JIM HOOD,

ATTORNEY GENERAL OF MISSISSIPPI AND ERIC CLARK,
SECRETARY OF STATE 4:06 CV29-P-B SHOWS THAT NOT ONLY
PLAINTIFFS HAVE STANDING, THEY HAVE A VERY HIGH
LIKELIHOOD OF SUCCEEDING ON THE MERITS

Not long ago, in 2006 the defendant herein, Democratic Party of MS, sued the secretary of state, as well as governor and Attorney general, claiming that elections laws existing on the books were unconstitutional. what they were claiming, wasn't actual fraud, but potential fraud. Democratic Party claimed that there was a possibility of fraud in the primaries where people, who are not members of the Democratic Party would vote in the Democratic Primary. They were claiming that potentially someone, who is not a Democrat, someone, who is not a citizen of Mississippi might vote in the Democratic primary, as elections laws were vague and they demanded to find existing elections law unconstitutional and were seeking a mandamus, an order of the court directing the State of Mississippi to change its existing laws in order to allow party preregistration and limiting primary voting only to individuals who are pre-registered with the party. U.S. District Judge for the southern District of Mississippi, Hon.Allen Pepper ruled in favor of the plaintiffs and retained the jurisdiction over the case for some time in order to make sure that the elections law was changed and that the changes were according to the directions of the court.

It is interesting that in 2006 in MS Democrats were trying to prevent what they seem to be doing in other states today, when bus loads of people are travelling from deep blue states of California, New York and Illinois to swing states of Nevada, Florida and Ohio and voting and influencing the results of both Primary elections, as well as General elections.

Going back to the 2006 case brought by the Democratic Party of Mississippi Executive Board(MDEC), plaintiffs there were stating, that they want to prevent a potential fraud, meaning people, who are lying, who are not from Mississippi, who are not Democrats from Mississippi should not affect our potential rights and the outcome of our future primaries.

Here in Taitz v Democratic Party, we have the same issue: fraud, elections fraud, identity fraud. The difference is only in that the tables are turned. Plaintiffs are saying: we do not want you, the defendants, to defraud us, we do not want you to submit as a legitimate candidate for President a person who is committing fraud and using forged IDs and a fraudulently obtained Social Security number from a state, where he never resided, we do not want you to use fraud in affecting the National elections. Just as the Democratic party had standing against ordinary citizens from other states, telling them "we do not want you to defraud us", the citizens are telling the Democratic Party and Mr. Obama "we do not want you to defraud us". It is interesting that in Democratic Party of MS et al v Governor and

Secretary of state et al, the damages were hypothetical, future damages. The MDEC was saying that citizens might defraud them in the future. The court ruled that a possibility of fraud in the future will suffice as a violation of the Constitutional rights. Here the plaintiffs are not talking about the future fraud, Plaintiffs are talking about the fraud that happened and ongoing. Defendants were on notice of Obama's use of a forged birth certificate from November 2, 2008, when Thomas v Hosemann was filed and Plaintiffs submitted to this very court a forged Short Form Birth Certificate for Obama as an exhibit with the complaint, fraud continued in January of 2012, when MDEC failed to take any action when Taitz submitted to MDEC some 80 pages of complaint and exhibits, among them sworn affidavits from a Senior Deportation officer John Samson and licensed investigators, all of whom attested to forgery in Obama's IDs, fraud continued, when during the 2012 Democratic National Convention members of the MDEC voted to confirm Obama as a Candidate for the general election, while they had evidence of Obama committing elections fraud. As a results of the actions by the defendants in aiding and abetting fraud, Plaintiffs suffered persecutions, loss of business, were victims of vandalism, harassment and intimidation. Standing of Plaintiffs in this case is much stronger then the standing of MDEC v Governor, Secretary of State in 2006.

2. Even if arguendo this court rules that it cannot proceed against the defendants under the elections law challenge, the case can proceed as a RICO complaint, which does not require a specific time table for a response.

FROM NOVEMBER 2, 2008 DEFENDANTS WERE ON NOTICE OF FORGERY IN OBAMA'S IDS AND CHOSE TO BE COMPLICIT IN COVER UP

As stated previously, from November 2, 2008 Defendants were on notice of very troubling evidence of forgery in Obama's IDs. In his case Thomas et al v Hosemann 2:08-cv-00241-KS-MTP former MS Judge James Bell, lead attorney on the case, provided defendants with evidence, showing that the alleged short form birth certificate used by defendant Obama represents a computer generated forgery. specifically, at issue was the fact that the borders of the birth certificate, which are supposed to have specific design, were different from the design used in 2008.

"... That a growing number of questions have arisen in litigation in at least ten (10) states

contesting whether Senator John McCain and Senator Barack Obama are natural born citizens and, therefore, constitutionally eligible to be entrusted with the office of President of the United States. In the litigation against

Senator Obama, allegations were made that he admitted dual citizenship in Kenya and Indonesia, and lack of evidence that he renounced the same, caused a loss of his U.S. Citizenship as a matter of law. Moreover, evidence released by the Obama campaign purporting to be a "Certification of Live Birth" on its face appears to be manufactured and unauthentic. See Exhibit A. This evidence was released to FactCheck.org, an Annenberg related agency which seeks to determine the veracity of certain claims made in public forums. See Exhibit B. One of the many problems with this evidence is that the border design differs from the border designs of other Certifications of Live Birth printed during the same time period. See

Exhibit C. All these questions about both candidates are still unresolved." *id* If the Secretary of State of MS were to exercise due diligence in 2008, when evidence of forgery was submitted, this legal case at hand would not be necessary and plaintiffs, particularly Taitz, would not have to go through the nightmare of four years of persecutions, harassment, intimidation and serious financial losses.

3. SECRETARY OF STATE FAILED HIS DUTY REGARDING PRESIDENTIAL PRIMARY BALLOT

Respondent quotes Code Section 23-15-1089 as the basis for his allegation that the Secretary of State fulfilled his duty in relation to Obama's candidacy.

On the contrary, this statute only strengthens and supports the Petitioner's position.

The statute states" The Secretary of State shall place the name of the candidate upon the presidential preference primary ballot when the Secretary of State **shall have determined** that such a **candidacy** is generally recognized throughout the Unites States or Mississippi as a candidate for the nomination of **President of the United States"** (emphasis added)

Let's look at the construction of the statute.

1. First, it does not state that the Secretary of State shall have assumed or guessed or figured by the tarot cards, it says "**shall have determined**".

While Petitioner Taitz was not born in this country and English is not her first or second language, she never the less believes that there is a big difference between the words assumed or determined. Dictionary on line by Farlex states:

determined - having been learned or found or
determined especially by investigation

undetermined - not yet having been ascertained
or determined; "of undetermined species"

determined -

dictated, set

settled - **established or decided**

beyond dispute or doubt

So, the Secretary of State needs to **determine- to establish something beyond dispute or doubt.**

4. What does Mr. Hosemann, the Secretary of State of Mississippi, need to establish, decide beyond dispute or doubt? He needs to establish:

a. that Obama is a candidate for the US Presidency

b. that he is a generally recognized candidate

3. how does one establish beyond dispute or doubt that a person is a candidate for the US Presidency?

What does it mean to be a **candidate**? For example, in order to be a candidate for licensure of a doctor, one needs to have a valid diploma from a medical school and a valid certificate of passing medical boards. When he has those

documents, he can be considered **a candidate** for obtaining a license to practice medicine in Mississippi. Without proper documents he is not a legitimate candidate.

5. What are the requirements, prerequisites to be a candidate for the US. Presidency?

According to the Article 2 Section 1 of the U.S. Constitution a candidate has to be :

- a. Natural born citizen
- b. 35 years old
- c. resided in the country for 14 years

6. How does one establish beyond dispute or doubt that a person is a natural born citizen and at least 35 years old?

In her complaint Taitz provided an argument that according to the intent of the framers of the Constitution and Minor v Happersett 88 US 162(1875), natural born means born in the country to two citizen parents. Some believe that it means only born in the country regardless of the citizenship of the parents. Even if you assume for the purpose of this discussion the most minimal

requirement of only being born in the country, there is still a **need to establish beyond dispute or doubt that one was born in the country**

7. How does one **establish beyond dispute or doubt** that one is born in the country? By examining candidate's primary identification papers, such as the original long form birth certificate, valid SS-5, valid hospital birth certificate. Taitz has provided with her complaint court transcripts with competent witness testimony which was admitted in court records, showing Obama's birth certificate and Social Security number to be a forgery. She is providing this court with the original signed court transcript with an embossed seal.

Federal Rules of Evidence 1002 require n original document for proof of substances of a writing.

8. RULE 1002. REQUIREMENT OF THE ORIGINAL

An original writing, recording, or photograph is required **in order to prove its content** unless these rules or a federal statute provides otherwise.

RULE 1003. ADMISSIBILITY OF DUPLICATES

A duplicate is admissible to the same extent as the original **unless a genuine question is raised about the original's authenticity** or the circumstances make it unfair to admit the duplicate.

Plaintiffs provided evidence, showing that all the copies represent computer generated forgeries, show specifically that Registrar Onaka is certifying computer generated forgeries as if they were genuine documents created in 1961 using a typewriter. Registrar Alvin T. Onaka is a person of interest in criminal investigation by Sheriff Joseph Arpaio. As such none of the copies can be relied upon.

6. Can the Secretary of State establish beyond dispute or doubt, that a person with a forged birth certificate is a valid candidate for the White House?

No. For the "Big House"-most probably, but not for the White House.

9. As the first prong of establishing that one is a candidate for the U.S. Presidency fails due to lack of valid identification records, the other prong of being recognized throughout Mississippi or US is irrelevant.

Additional argument can be made that common sense would tell one that "candidate generally recognized throughout the U.S. " means recognized as a **legitimate candidate**. After the January 26 eligibility hearing in Georgia and March 1 press conference by sheriff Arpaio in Arizona Obama is **no longer known as a legitimate** candidate. He is known as a fraud, as a criminal, who is using forged documents. Attached links and press releases attest to that. Both January 26 hearing and March 1 press conference were videotaped by all major

networks. So, for that reason alone, respondents argument fails, as Obama is no longer known and a legitimate candidate, but as a fraud, who is kept in office and on the ballot by corrupt governmental officials, AGs, and judges, who were either intimidated, blackmailed or bribed to be complicit in the biggest case of elections fraud, forgery and treason, ever to take place in this country.

There are no precedents, which would be relevant to this case, as normally people do not reach such level of criminality and arrogance, as to assume the top position of power, while using forged documents.

There is a belief that president Chester Arthur might have burnt his identification papers, however it was found that Arthur was born in this country. President Chester Arthur's handicap was only in that possibly his father was not a U.S. citizen yet at the time Arthur was born. In Obama's case not only his father was never a U.S. citizen and Obama was a foreign national with foreign allegiance at birth, but he is also using forged identification papers as proof of his U.S. birth.

10. Respondent brings forward the case Keyes v Bowen, 189Cal. App.4th 647(Cal.App. 3 Dist.2010). Keyes is vastly different from the case at hand. If Respondent were to look at the caption of the case, as it was filed in the Superior court of CA, Respondent would see that Taitz was actually the lead

counsel on the case. The difference between Keyes and the case at hand, is that Keyes was filed after the election. Keyes challenged the elected President. Due to the fact that the co-counsel in Keyes, Garry Kreep, left the state prior to the electoral college meeting, the hearing on Keyes was postponed to March of 2009, which was after not only the election, but also after the swearing of the President, the case was dismissed. Requirements in a challenge of the sitting President are different from requirements for challenging a candidate in the primary election, who is seeking to be on the ballot.

Additionaly, standing in this case is statutory. Section 23-15-961, 23-15-963 allows any party to challenge a candidate on the ballot by first lodging a complaint with the party. The same statute provides a party, aggrieved by a negative action or inaction of the party, to file an action challenge with the Circuit court. As the standing is provided by the statute, the argument of lack of standing is without merit.

Based on the precedent of Mississippi State Democratic Party et al v Haley Barbour, governor et al, described above this court has jurisdiction not only to provide the interpretation of the §23-15-01089 **as requiring "determination" based on a reasonable due diligence of eligibility**, but also this court has jurisdiction to find that leaving statute vague, would make it unconstitutional and would mean continued deprivation of civil rights of citizens, deprivation of

their civil right to vote in fair elections, their 14th amendment Equal Protection rights. Just as Judge Pepper in MSDP and MSDEC v Governor et al, instituted a mechanism, that would safeguard the constitutional right of the MSDP, this court has jurisdiction and duty to institute a mechanism which would prevent deprivation of the citizen's civil right to participate in free and fair elections, free of fraud and forgery, a mechanism which would prevent the political party and the secretary of state to simply ignore the evidence of elections fraud and use of forged IDs by Candidate Obama or any other Candidate in the future.

11. RICO PREDICATE ACTS WERE SPECIFIED IN THE COMPLAINT

Defense claims that RICO was not specified in the complaint. That is not the case. 45 page complaint is describing in detail predicate acts, accomplices and damages suffered by the Plaintiffs. The predicate acts are as follows:

JURISDICTION AND APPLICABLE LAW

RICO

Chapter 96 of [Title 18 of the United States Code](#), 18 U.S.C. § 1961–1968

PREDICATE ACTS

section [1028](#) (relating to fraud and related activity in connection with identification documents),

section [1341](#) (relating to mail fraud),

section [1343](#) (relating to wire fraud),

section [1425](#) (relating to the procurement of citizenship or nationalization unlawfully), section [1426](#) (relating to the reproduction of naturalization or citizenship papers

section [1503](#) (relating to obstruction of justice),

section [1512](#) (relating to tampering with a witness, victim, or an informant),

section [1513](#) (relating to retaliating against a witness, victim, or an informant),
section

section [1546](#) (relating to fraud and misuse of visas, permits, and other documents)

Mississippi code of 1972 as amended Chapter 021 of
Title 97

[97-21-5.](#)

Certain instruments deemed
writings.

**SEC. 97-21-5. Certain
instruments deemed
writings.**

Every instrument, partly written and partly printed, or wholly printed, with a written signature thereto, and every signature of an individual, firm, or corporate body, or of any officer of such body, and every writing purporting to be such signature, shall be deemed a writing and a written instrument within the meaning of the provisions of this chapter.

97-21-21.

Destruction, erasure, or obliteration of writing deemed forgery.

97-21-27.

Intent to defraud.

SEC. 97-21-27. Intent to defraud.

Whenever, by any of the provisions of this chapter, an intent to defraud is required to constitute a forgery, it shall be sufficient if such intent appear to defraud the United States, any state or territory, and body-corporate, county, city, town, or village, or any public officer in his official capacity, any co-partnership, or any one of such partners, or any real person whatever.

97-21-31.

Parts of several genuine instruments connected to make one instrument.

SEC. 97-21-31. Parts of several genuine instruments connected to make one instrument.

When different parts of several genuine instruments shall be so placed or connected together as to produce one instrument, with

intent to defraud, the same shall be forgery, in the same manner as if the parts so put together were falsely made or forged.

97-21-33.

Penalty for forgery.

SEC. 97-21-33. Penalty for forgery.

Persons convicted of forgery shall be punished by imprisonment in the Penitentiary for a term of not less than two (2) years nor more than ten (10) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or both; provided, however, that when the amount of value involved is less than Five Hundred Dollars (\$500.00) in lieu of the punishment above provided for, the person convicted may be punished by imprisonment in the county jail for a term of not more than six (6) months, or by a fine of not more than One Thousand Dollars (\$1,000.00), or both, within the discretion of the court.

SEC. 97-21-35. Pleadings, process and other court papers, licenses, or written

instruments generally.

Every person who, with the intent to injure or defraud, shall falsely make, alter, forge, or counterfeit any instrument or writing being or purporting to be any process issued by any competent court, magistrate, or officer, or being or purporting to be any pleading or proceeding filed or entered in any court of law or equity, or being or purporting to be any certificate, order, or allowance, by any competent court, board, or officer, or being or purporting to be any license or authority authorized by any statute, or any instrument or writing being or purporting to be the act of another, by which any pecuniary demand or obligation shall be or purport to be created, increased, discharged, or diminished, or by which any right or property whatever shall be or purport to be transferred, conveyed, discharged, diminished, or in any manner affected, by which false making, forging, altering or counterfeiting any person may be affected, bound, or in any way injured in his person or property, shall be guilty of forgery.

97-21-63. **SEC. 97-21-63. Will, deed, certificate of** Will, deed, certificate of
acknowledgment or proof of recordable acknowledgment or proof of
instrument. recordable instrument.

Every person who shall be convicted of having forged, counterfeited, or falsely altered any will of real or personal property, or any deed or other instrument, being or purporting to be the act of another by which any right or interest in real or personal property shall be or purport to be transferred, conveyed, or in any way changed or affected; or any certificate or indorsement of the acknowledgment of any person of any deed or other instrument which by law may be recorded, made or purporting to have been made by any officer duly authorized to make such certificate or indorsement; or any certificate of the proof of any deed or other instrument which by law may be recorded, made or purporting to have been made by any officer duly authorized to make such certificate, with intent to defraud, shall be guilty of forgery.

**DE-FACTO RICO ENTERPRISE,
"ASSOCIATION-IN-FACT" RICO
ENTERPRISE**

77. Between 2007-2012 defendants acted together or in groups and created an

"association- in- fact" enterprise, which is sufficient for RICO, even if "Obama for America" was not a RICO enterprise. Defendants acted directly or indirectly, personally or through agent or agents, employed the same or similar methods of commission with the purpose to defraud, utter forged documents, commit wire and mail fraud, unlawfully procure citizenship and nationalization unlawfully, obstruct justice and intimidate, harass, defame, slander and

otherwise retaliate against witnesses, victims, informants and whistleblowers. Plaintiffs were victims of the acts of the racketeering or the acts of racketeering were otherwise interrelated by distinguishing characteristics and were not isolated events.

PATTERN OF ONGOING RACKETEERING ACTIVITY

78. Fraud committed by defendants, who were acting directly or indirectly and committed fraud, which was on going from 2007 until now, for over four years. Actions by the defendants established a pattern of racketeering activity within the meaning of 18 U.S.C. §1962(c), in that their common purpose was to defraud, the common result was to defraud. Plaintiffs were victims of the acts of racketeering and the acts of racketeering were otherwise related by distinguishing characteristics and were not isolated events.

"Obama for America" -Racketeering
Influenced Corrupt Organization

Barack Hussein Obama created "Obama For America" as his fundraising organization for his Presidential run. At all times Obama was not eligible for the US presidency and he used "Obama for America" as a vehicle to defraud American citizens and get into the position of the U.S. President while using forged

documents.

Defense states that Plaintiffs did not meet heightened requirements for pleadings set in *See* Fed. R. Civ.P. 8; *Bell Atlantic v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1954, (2009). *Twombly* and *Iqbal* add a component of plausibility to the complaint, which is not present in the state court, however the court should remember that

- a. Plaintiffs filed the complaint in the state court, which has a lower threshold for pleadings
- b. Plaintiffs have to overcome the enormous hurdle of stonewalling by multiple governmental officials and agencies due to Obama's current position. Plaintiffs would need further discovery and court's subpoena power in order to provide more details for RICO complaint.

After a reasonable opportunity to conduct discovery Plaintiffs would be able to provide more specifics on RICO activity.

CONCLUSION Based on all of the above **Defendants failed to meet their burden of proof** and the **Defendants Motion to Dismiss the Entire Complaint on the Pleadings** should be denied. The pleadings are sufficient to proceed to the

next step of the discovery, which was stayed by this court pending adjudication of the motion to dismiss on the pleadings. Respectfully submitted


/s/ Dr. Orly Taitz, ESQ 10.15.2012

I, Orly Taitz, attest that defendants in this case are being served today, 10.15.2012 via Electronic Court Filing

/s/ Orly Taitz

Hosemann 08-cv-280 and Thomas et al v Hosemann 08-cv-248 MSSD. In this case 28 citizens from different states sued the same Secretary of state of MS, Delbert Hosemann, for Declaratory relief . Incidentally, the lead plaintiff in this case was a resident of California as well. The fact that the case was brought by a former Mississippi judge, well versed in Mississippi law, was an additional indication for the Plaintiffs, that there is no provision in MS law preventing non-residents from filing an election challenge. Later this case was withdrawn by the plaintiffs, as it went past the electoral college certification time and the state of Hawaii was stonewalling and refusing to provide any information. Today, plaintiffs have gathered more evidence and more information to proceed and succeed in the challenge.

This is part 1 of the opposition. Part 2 of the opposition is provided in the answer to the Democratic Party of MS and is included herein by reference



/s/ DR. Orly Taitz ESQ-pro se plaintiff signing on her behalf

I attest that the defendants will be served on October 15, 2012 via electronic Court filing of these pleadings



/s/ Dr. Orly Taitz, ESQ